

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHERYLNN MACDONALD,

Plaintiff,

v.

Case No. 12-CV-12048
Honorable Denise Page Hood

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION, DENYING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, AND GRANTING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

This matter comes before the Court on Magistrate Judge Mark A. Randon's Report and Recommendation. Plaintiff Cheryllyn MacDonald filed this action on May 7, 2012, asking the Court to review the Commissioner's final decision to deny social security benefits. The parties filed cross motions for summary judgment. The Magistrate Judge recommends that the Court grant the Commissioner's Motion for Summary Judgment and deny Plaintiff's Motion for Summary Judgment. For the reasons stated below, the Court hereby ADOPTS the Report and Recommendation, GRANTS the Commissioner's Motion for Summary Judgment, and DENIES Plaintiff's Motion for Summary Judgment.

The Court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* An objection to the Report and Recommendation must be timely and specific. *See Fed. R. Civ. P. 72(b)(2); E.D. Mich. L. R. 72.1(d); United States v. Walters*, 638 F.2d

947, 950 (6th Cir. 1981) (“The filing of objections provides the district court with the opportunity to consider the specific contentions of the parties and to correct any errors immediately.”)

Judicial review of the Commissioner’s decision is limited to determining whether the Commissioner’s findings of fact are supported by substantial evidence and whether the Commissioner used the proper legal criteria in reaching a conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). “Substantial evidence is more than a scintilla of evidence but less than a preponderance and is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Brainard v. Sec. of Health and Human Serv.*, 889 F.2d 679, 681 (6th Cir. 1989). Here, the Magistrate Judge found that the administrative law judge’s (ALJ) disability determination was supported by substantial evidence. Specifically, the Magistrate Judge concluded that the ALJ provided sufficient reasoning for his credibility determinations and that the ALJ properly relied on the vocational expert’s hypothetical.

The Court finds the Magistrate Judge’s reasoning and conclusions appropriate. Furthermore, neither party has filed an objection to the Report and Recommendation. A party’s failure to file any objections waives his or her right to further appeal. *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court deems all objections waived and adopts the Magistrate Judge’s recommendation in its entirety.

Accordingly,

IT IS ORDERED that the Report and Recommendation [Docket No. 13, filed May 21, 2013] is ADOPTED as this Court’s findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendant’s Motion to Dismiss [Docket No. 8, filed October 9, 2012] is GRANTED. The Commissioner’s final determination of disability is thereby

affirmed.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [Docket No. 12, filed January 30, 2013] is DENIED.

IT IS SO ORDERED.

S/Denise Page Hood

Denise Page Hood

United States District Judge

Dated: June 26, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on June 26, 2013, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager